

Assembly Bill No. 2662

CHAPTER 589

An act to amend Sections 35566, 35787, 41326, 41344, 42127, 42131, 42238.12, 48070.6, 48904, 49550.3, 51765, and 60605.86 of, and to amend the heading of Article 3 (commencing with Section 33530) of Chapter 4 of Part 20 of Division 2 of Title 2 of, the Education Code, to amend Section 8880.5 of the Government Code, and to amend Section 75.70 of the Revenue and Taxation Code, relating to education.

[Approved by Governor September 26, 2012. Filed with
Secretary of State September 26, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2662, Committee on Education. Education.

(1) Existing law provides a process for the reorganization of school districts and includes lapsation within the actions to reorganize. A lapse is defined as an action to dissolve a school district and annex the entire territory of that district to one or more adjoining school districts. Existing law makes an action to lapse a school district subject to specified general statutory provisions regarding the reorganization of school districts.

This bill would make an action to lapse a school district also subject to other provisions regarding plans and recommendations of a county committee on school district organization.

(2) Existing law provides for emergency apportionments to be made school districts that have become insolvent, and requires various actions to be taken by the school district and the Superintendent of Public Instruction to receive these apportionments, including the appointment of a trustee, the appointment of an administrator, and the approval of recovery plans. Existing law authorizes the Superintendent to reassume all the legal rights, duties, and powers of the governing board of the school district if the school district violates a provision of the recovery plans within 5 years after the trustee is removed.

This bill would authorize the Superintendent to reassume those rights, duties, and powers during the period of the trustee's appointment and when specified improvement plans are violated.

(3) Existing law requires the Superintendent and the Director of Finance, jointly, to establish a plan for repayment of school funds that a local educational agency received on the basis of average daily attendance that did not comply with statutory or regulatory requirements that were conditions of apportionments, as determined by an audit or review. Existing law also requires the Superintendent and the Director of Finance, jointly, to establish a plan for repayment of a penalty arising from an audit exception. Existing

law authorizes a local educational agency to appeal a finding of a final audit report.

This bill would specify, for purposes of the above-described provisions, that a charter school is a local educational agency.

(4) Existing law requires the governing board of a school district to certify twice during a fiscal year whether the school district is able to meet its financial obligations for the remainder of the fiscal year and for the subsequent fiscal year. Existing law requires these certifications to be classified as positive, qualified, or negative and to be filed with the county superintendent of schools. Existing law requires a county superintendent of schools to change a positive certification to negative or qualified when the county office of education determines a negative or qualified certification should have been filed.

This bill would authorize the county superintendent of schools also to change a qualified certification if it is determined that a negative certification should have been filed.

(5) Existing law makes the parent or guardian of any minor whose willful misconduct results in injury or death to a pupil or public or private school employee or volunteer or who willfully cuts, defaces, or otherwise injures real or personal property belonging to a school district or private school, or personal property of a school employee, liable for all damages so caused by the minor or for a reward concerning information leading to the determination of the identity of, and the apprehension of, a person causing that injury or damage. Existing law limits the parent's or guardian's liability to \$10,000.

This bill would adjust the \$10,000 limit on liability annually for inflation, as specified.

(6) Existing law authorizes the governing board of a school district to approve supplemental instructional materials other than those approved by the State Board of Education if the governing board performs specified reviews and determines that these supplemental instructional materials are aligned with the California common core academic content standards and meet the needs of the pupils of the school district.

This bill would extend this authorization to county offices of education.

(7) Existing law governing work experience education programs contains a reference to mentally retarded pupils.

This bill would change that reference to pupils with intellectual disabilities.

(8) Existing law, known as the California State Lottery Act of 1984, establishes a state lottery that, among other things, provides funds to benefit public education. The act requires payments of lottery funds to be made directly to public school districts on the basis of an equal amount for each unit of average daily attendance and requires the number of units of average daily attendance in the 2008–09 to 2012–13 fiscal years, inclusive, to include the same amount of average daily attendance for classes for adults and regional occupational centers and programs used in the calculation made for the 2007–08 fiscal year. As an initiative measure, the act prohibits its

provisions from being changed except to further its purposes by a bill passed by a $\frac{2}{3}$ vote of both houses of the Legislature and signed by the Governor.

This bill also would require the number of units of average daily attendance in the 2013–14 and 2014–15 fiscal years to include the same amount of average daily attendance for classes for adults and regional occupational centers and programs used in the calculation made for the 2007–08 fiscal year. The bill would declare that this change furthers the purposes of the act.

(9) Existing tax law excludes school districts that receive in the prior fiscal year a minimum of \$120 of state aid per pupil or \$2,400 per school district from receiving specified supplemental tax revenues. Existing law defines these school districts as basic aid school districts or excess tax school entities.

This bill would refer to the school districts that are not eligible to receive the specified supplemental tax revenues as excess tax school entities.

(10) This bill would make technical amendments and nonsubstantive changes.

(11) This bill would incorporate additional changes in Section 41326 of the Education Code, proposed by AB 2279, that would become operative only if AB 2279 and this bill are both chaptered and become effective January 1, 2013, and this bill is chaptered last. The bill also would incorporate additional changes in Section 48070.6 of the Education Code, proposed by SB 1497, that would become operative only if SB 1497 and this bill are both chaptered and become effective January 1, 2013, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. The heading of Article 3 (commencing with Section 33530) of Chapter 4 of Part 20 of Division 2 of Title 2 of the Education Code is amended to read:

Article 3. Instructional Quality Commission

SEC. 2. Section 35566 of the Education Code is amended to read:

35566. Notwithstanding any provisions of this article, exchanges of property tax revenues between school districts as a result of reorganization shall be determined pursuant to subdivision (i) of Section 99 of the Revenue and Taxation Code if one or more affected school districts receive only basic aid apportionments required by Section 6 of Article IX of the California Constitution.

SEC. 3. Section 35787 of the Education Code is amended to read:

35787. Except as otherwise provided in this article, an action to lapse a school district is subject to the provisions of Chapter 3 (commencing with Section 35500), and the county committee may add to its order to lapse a

school district, pursuant to Section 35783, appropriate provisions specified in Article 3 (commencing with Section 35730).

SEC. 4. Section 41326 of the Education Code is amended to read:

41326. (a) Notwithstanding any other provision of this code, the acceptance by a school district of an apportionment made pursuant to Section 41320 that exceeds an amount equal to 200 percent of the amount of the reserve recommended for that school district under the standards and criteria adopted pursuant to Section 33127 constitutes the agreement by the school district to the conditions set forth in this article. Before applying for an emergency apportionment in the amount identified in this subdivision, the governing board of a school district shall discuss the need for that apportionment at a regular or special meeting of the governing board of the school district and, at that meeting, shall receive testimony regarding the apportionment from parents, exclusive representatives of employees of the school district, and other members of the community. For purposes of this article, “qualifying school district” means a school district that accepts a loan as described in this subdivision.

(b) The Superintendent shall assume all the legal rights, duties, and powers of the governing board of a qualifying school district. The Superintendent, in consultation with the county superintendent of schools, shall appoint an administrator to act on his or her behalf in exercising the authority described in this subdivision in accordance with all of the following:

(1) The administrator shall serve under the direction and supervision of the Superintendent until terminated by the Superintendent at his or her discretion. The Superintendent shall consult with the county superintendent of schools before terminating the administrator.

(2) The administrator shall have recognized expertise in management and finance.

(3) To facilitate the appointment of the administrator and the employment of any necessary staff, for purposes of this section, the Superintendent is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(4) Notwithstanding any other law, the Superintendent may appoint an employee of the state or the office of the county superintendent of schools to act as administrator for up to the duration of the administratorship. During the tenure of his or her appointment, the administrator, if he or she is an employee of the state or the office of the county superintendent of schools, is an employee of the school district, but shall remain in the same retirement system under the same plan that has been provided by his or her employment with the state or the office of the county superintendent of schools. Upon the expiration or termination of the appointment, the employee shall have the right to return to his or her former position, or to a position at substantially the same level as that position, with the state or the office of the county superintendent of schools. The time served in the appointment

shall be counted for all purposes as if the administrator had served that time in his or her former position with the state or the office of the county superintendent of schools.

(5) Except for an individual appointed as an administrator by the Superintendent pursuant to paragraph (4), the administrator shall be a member of the State Teachers' Retirement System, if qualified, for the period of service as administrator, unless he or she elects in writing not to become a member. A person who is a member or retirant of the State Teachers' Retirement System at the time of appointment shall continue to be a member or retirant of the system for the duration of the appointment. If the administrator chooses to become a member or is already a member, the administrator shall be placed on the payroll of the school district for purposes of providing appropriate contributions to the system. The Superintendent may also require the administrator to be placed on the payroll of the school district for purposes of remuneration, other benefits, and payroll deductions.

(6) For purposes of workers' compensation benefits, the administrator is an employee of the qualifying school district, except that an administrator appointed pursuant to paragraph (4) may be deemed an employee of the state or office of the county superintendent of schools, as applicable.

(7) The qualifying school district shall add the administrator as a covered employee of the school district for all purposes of errors and omissions liability insurance policies.

(8) The salary and benefits of the administrator shall be established by the Superintendent and paid by the qualifying school district.

(9) The Superintendent or the administrator may employ, on a short-term basis and at school district expense, any staff necessary to assist the administrator, including, but not limited to, a certified public accountant.

(10) The administrator may do all of the following:

(A) Implement substantial changes in the fiscal policies and practices of the school district, including, if necessary, the filing of a petition under Chapter 9 (commencing with Section 901) of Title 11 of the United States Code for the adjustment of indebtedness.

(B) Revise the educational program of the school district to reflect realistic income projections and pupil performance relative to state standards.

(C) Encourage all members of the school community to accept a fair share of the burden of the fiscal recovery of the school district.

(D) Consult, for the purposes described in this subdivision, with the governing board of the school district, the exclusive representatives of the employees of the school district, parents, and the community.

(E) Consult with, and seek recommendations from, the Superintendent, county superintendent of schools, and the County Office Fiscal Crisis and Management Assistance Team authorized pursuant to subdivision (c) of Section 42127.8 for the purposes described in this article.

(F) With the approval of the Superintendent, enter into agreements on behalf of the school district and, subject to any contractual obligation of the school district, change any existing district rules, regulations, policies, or

practices as necessary for the effective implementation of the recovery plans referred to in Sections 41327 and 41327.1.

(c) (1) For the period of time during which the Superintendent exercises the authority described in subdivision (b), the governing board of the qualifying school district shall serve as an advisory body reporting to the state-appointed administrator, and has no rights, duties, or powers, and is not entitled to any stipend, benefits, or other compensation from the school district.

(2) Upon the appointment of an administrator pursuant to this section, the district superintendent of schools is no longer an employee of the school district.

(3) A determination of the severance compensation for the district superintendent shall be made pursuant to subdivision (j).

(d) Notwithstanding Section 35031 or any other law, the administrator, after according the affected employee reasonable notice and the opportunity for a hearing, may terminate the employment of any deputy, associate, assistant superintendent of schools, or any other district level administrator who is employed by a school district under a contract of employment signed or renewed after January 1, 1992, if the employee fails to document, to the satisfaction of the administrator, that before the date of the acceptance of the apportionment he or she either advised the governing board of the school district, or his or her superior, that actions contemplated or taken by the governing board of the school district could result in the fiscal insolvency of the school district, or took other appropriate action to avert that fiscal insolvency.

(e) The authority of the Superintendent, and the administrator, under this section shall continue until all of the following occur:

(1) (A) After one complete fiscal year has elapsed following the school district's acceptance of a loan as described in subdivision (a), the administrator determines, and so notifies the Superintendent and the county superintendent of schools, that future compliance by the school district with the recovery plans approved pursuant to paragraph (2) is probable.

(B) The Superintendent may return power to the governing board of the school district for any area listed in subdivision (a) of Section 41327.1 if performance under the recovery plan for that area has been demonstrated to the satisfaction of the Superintendent.

(2) The Superintendent has approved all of the recovery plans referred to in subdivision (a) of Section 41327 and the County Office Fiscal Crisis and Management Assistance Team completes the improvement plans specified in Section 41327.1 and has completed a minimum of two reports identifying the school district's progress in implementing the improvement plans.

(3) The administrator certifies that all necessary collective bargaining agreements have been negotiated and ratified, and that the agreements are consistent with the terms of the recovery plans.

(4) The school district has completed all reports required by the Superintendent and the administrator.

(5) The Superintendent determines that future compliance by the school district with the recovery plans approved pursuant to paragraph (2) is probable.

(f) When the conditions stated in subdivision (e) have been met, and at least 60 days after the Superintendent has notified the Legislature, the Department of Finance, the Controller, and the county superintendent of schools that he or she expects the conditions prescribed pursuant to this section to be met, the governing board of the school district shall regain all of its legal rights, duties, and powers, except for the powers held by the trustee provided for pursuant to Article 2 (commencing with Section 41320). The Superintendent shall appoint a trustee under Section 41320.1 to monitor and review the operations of the school district until the conditions of subdivision (b) of that section have been met.

(g) Notwithstanding subdivision (f), if the school district violates any provision of the recovery plans approved by the Superintendent pursuant to this article within five years after the trustee appointed pursuant to Section 41320.1 is removed or the improvement plans specified in Section 41327.1 during the period of the trustee's appointment, the Superintendent may reassume, either directly or through an administrator appointed in accordance with this section, all of the legal rights, duties, and powers of the governing board of the school district. The Superintendent shall return to the governing board of the school district all of its legal rights, duties, and powers reassumed under this subdivision when he or she determines that future compliance with the approved recovery plans is probable, or after a period of one year, whichever occurs later.

(h) Article 2 (commencing with Section 41320) shall apply except as otherwise specified in this article.

(i) It is the intent of the Legislature that the legislative budget subcommittees annually conduct a review of each qualifying school district that includes an evaluation of the financial condition of the school district, the impact of the recovery plans upon the school district's educational program, and the efforts made by the state-appointed administrator to obtain input from the community and the governing board of the school district.

(j) (1) The district superintendent is entitled to a due process hearing for purposes of determining final compensation. The final compensation of the district superintendent shall be between zero and six times his or her monthly salary. The outcome of the due process hearing shall be reported to the Superintendent and the public. The information provided to the public shall explain the rationale for the compensation.

(2) This subdivision applies only to a contract for employment negotiated on or after June 21, 2004.

(k) (1) When the Superintendent assumes control over a school district pursuant to subdivision (b), he or she shall, in consultation with the County Office Fiscal Crisis and Management Assistance Team, review the fiscal oversight of the school district by the county superintendent of schools. The Superintendent may consult with other fiscal experts, including other county

superintendents of schools and regional fiscal teams, in conducting this review.

(2) Within three months of assuming control over a qualifying school district, the Superintendent shall report his or her findings to the Legislature and shall provide a copy of that report to the Department of Finance. This report shall include findings as to fiscal oversight actions that were or were not taken and may include recommendations as to an appropriate legislative response to improve fiscal oversight.

(3) If after performing the duties described in paragraphs (1) and (2), the Superintendent determines that the county superintendent of schools failed to carry out his or her responsibilities for fiscal oversight as required by this code, the Superintendent may exercise the authority of the county superintendent of schools who has oversight responsibilities for a qualifying school district. If the Superintendent finds, based on the report required in paragraph (2), that the county superintendent of schools failed to appropriately take into account particular types of indicators of financial distress, or failed to take appropriate remedial actions in the qualifying school district, the Superintendent shall further investigate whether the county superintendent of schools failed to take into account those indicators, or similarly failed to take appropriate actions in other school districts with negative or qualified certifications, and shall provide an additional report on the fiscal oversight practices of the county superintendent to the appropriate policy and fiscal committees of each house of the Legislature and the Department of Finance.

SEC. 4.5. Section 41326 of the Education Code is amended to read:

41326. (a) Notwithstanding any other provision of this code, the acceptance by a school district of an apportionment made pursuant to Section 41320 that exceeds an amount equal to 200 percent of the amount of the reserve recommended for that school district under the standards and criteria adopted pursuant to Section 33127 constitutes the agreement by the school district to the conditions set forth in this article. Before applying for an emergency apportionment in the amount identified in this subdivision, the governing board of a school district shall discuss the need for that apportionment at a regular or special meeting of the governing board of the school district and, at that meeting, shall receive testimony regarding the apportionment from parents, exclusive representatives of employees of the school district, and other members of the community. For purposes of this article, “qualifying school district” means a school district that accepts a loan as described in this subdivision.

(b) The Superintendent shall assume all the legal rights, duties, and powers of the governing board of a qualifying school district. The Superintendent, in consultation with the county superintendent of schools, shall appoint an administrator to act on his or her behalf in exercising the authority described in this subdivision in accordance with all of the following:

(1) The administrator shall serve under the direction and supervision of the Superintendent until terminated by the Superintendent at his or her

discretion. The Superintendent shall consult with the county superintendent of schools before terminating the administrator.

(2) The administrator shall have recognized expertise in management and finance.

(3) To facilitate the appointment of the administrator and the employment of necessary staff, for purposes of this section, the Superintendent is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(4) Notwithstanding any other law, the Superintendent may appoint an employee of the state or the office of the county superintendent of schools to act as administrator for up to the duration of the administratorship. During the tenure of his or her appointment, the administrator, if he or she is an employee of the state or the office of the county superintendent of schools, is an employee of the qualifying school district, but shall remain in the same retirement system under the same plan that has been provided by his or her employment with the state or the office of the county superintendent of schools. Upon the expiration or termination of the appointment, the employee shall have the right to return to his or her former position, or to a position at substantially the same level as that position, with the state or the office of the county superintendent of schools. The time served in the appointment shall be counted for all purposes as if the administrator had served that time in his or her former position with the state or the office of the county superintendent of schools.

(5) Except for an individual appointed as an administrator by the Superintendent pursuant to paragraph (4), the administrator shall be a member of the State Teachers' Retirement System, if qualified, for the period of service as administrator, unless he or she elects in writing not to become a member. A person who is a member or retirant of the State Teachers' Retirement System at the time of appointment shall continue to be a member or retirant of the system for the duration of the appointment. If the administrator chooses to become a member or is already a member, the administrator shall be placed on the payroll of the qualifying school district for purposes of providing appropriate contributions to the system. The Superintendent may also require the administrator to be placed on the payroll of the qualifying school district for purposes of remuneration, other benefits, and payroll deductions.

(6) For purposes of workers' compensation benefits, the administrator is an employee of the qualifying school district, except that an administrator appointed pursuant to paragraph (4) may be deemed an employee of the state or office of the county superintendent of schools, as applicable.

(7) The qualifying school district shall add the administrator as a covered employee of the qualifying school district for all purposes of errors and omissions liability insurance policies.

(8) The salary and benefits of the administrator shall be established by the Superintendent and paid by the qualifying school district.

(9) The Superintendent or the administrator may employ, on a short-term basis and at the expense of the qualifying school district, any staff necessary to assist the administrator, including, but not limited to, a certified public accountant.

(10) The administrator may do all of the following:

(A) Implement substantial changes in the fiscal policies and practices of the qualifying school district, including, if necessary, the filing of a petition under Chapter 9 (commencing with Section 901) of Title 11 of the United States Code for the adjustment of indebtedness.

(B) Revise the educational program of the qualifying school district to reflect realistic income projections and pupil performance relative to state standards.

(C) Encourage all members of the school community to accept a fair share of the burden of the fiscal recovery of the qualifying school district.

(D) Consult, for the purposes described in this subdivision, with the governing board of the qualifying school district, the exclusive representatives of the employees of the qualifying school district, parents, and the community.

(E) Consult with, and seek recommendations from, the Superintendent, the county superintendent of schools, and the County Office Fiscal Crisis and Management Assistance Team authorized pursuant to subdivision (c) of Section 42127.8 for the purposes described in this article.

(F) With the approval of the Superintendent, enter into agreements on behalf of the qualifying school district and, subject to any contractual obligation of the qualifying school district, change existing school district rules, regulations, policies, or practices as necessary for the effective implementation of the recovery plans referred to in Sections 41327 and 41327.1.

(c) (1) Except as provided for in paragraph (2), the period of time during which the Superintendent exercises the authority described in subdivision (b), the governing board of the qualifying school district shall serve as an advisory body reporting to the state-appointed administrator, and has no rights, duties, or powers, and is not entitled to any stipend, benefits, or other compensation from the qualifying school district.

(2) (A) After one complete fiscal year has elapsed following the qualifying school district's acceptance of an emergency apportionment, the governing board of the qualifying school district may conduct an annual advisory evaluation of an administrator for the duration of the administratorship.

(B) An advisory evaluation of an administrator shall focus on the administrator's effectiveness in leading the school district toward fiscal recovery and improved academic achievement. Advisory evaluation criteria shall be agreed upon by the governing board of the qualifying school district and the administrator before the advisory evaluation. The advisory evaluation shall include, but not be limited to, all of the following:

(i) Goals and standards consistent with Section 41327.1.

(ii) Commendations in the areas of the administrator's strengths and achievements.

(iii) Recommendations for improving the administrator's effectiveness in areas of concern and unsatisfactory performance.

(C) An advisory evaluation of an administrator conducted by the governing board of a qualifying school district shall be submitted to the Governor, the Legislature, the Superintendent, and the County Office Fiscal Crisis and Management Assistance Team.

(3) Upon the appointment of an administrator pursuant to this section, the district superintendent is no longer an employee of the qualifying school district.

(4) A determination of the severance compensation for the district superintendent shall be made pursuant to subdivision (j).

(d) Notwithstanding Section 35031 or any other law, the administrator, after according the affected employee reasonable notice and the opportunity for a hearing, may terminate the employment of a deputy, associate, assistant superintendent, or other school district level administrator who is employed by a qualifying school district under a contract of employment signed or renewed after January 1, 1992, if the employee fails to document, to the satisfaction of the administrator, that before the date of the acceptance of the emergency apportionment he or she either advised the governing board of the qualifying school district, or his or her superior, that actions contemplated or taken by the governing board of the qualifying school district could result in the fiscal insolvency of the qualifying school district, or took other appropriate action to avert that fiscal insolvency.

(e) The authority of the Superintendent, and the administrator, under this section shall continue until all of the following occur:

(1) (A) After one complete fiscal year has elapsed following the qualifying school district's acceptance of an emergency apportionment as described in subdivision (a), the administrator determines, and so notifies the Superintendent and the county superintendent of schools, that future compliance by the qualifying school district with the recovery plans approved pursuant to paragraph (2) is probable.

(B) The Superintendent may return power to the governing board of the qualifying school district for an area listed in subdivision (a) of Section 41327.1 if performance under the recovery plan for that area has been demonstrated to the satisfaction of the Superintendent.

(2) The Superintendent has approved all of the recovery plans referred to in subdivision (a) of Section 41327 and the County Office Fiscal Crisis and Management Assistance Team completes the improvement plans specified in Section 41327.1 and has completed a minimum of two reports identifying the qualifying school district's progress in implementing the improvement plans.

(3) The administrator certifies that all necessary collective bargaining agreements have been negotiated and ratified, and that the agreements are consistent with the terms of the recovery plans.

(4) The qualifying school district has completed all reports required by the Superintendent and the administrator.

(5) The Superintendent determines that future compliance by the qualifying school district with the recovery plans approved pursuant to paragraph (2) is probable.

(f) When the conditions stated in subdivision (e) have been met, and at least 60 days after the Superintendent has notified the Legislature, the Department of Finance, the Controller, and the county superintendent of schools that he or she expects the conditions prescribed pursuant to this section to be met, the governing board of the qualifying school district shall regain all of its legal rights, duties, and powers, except for the powers held by the trustee provided for pursuant to Article 2 (commencing with Section 41320). The Superintendent shall appoint a trustee under Section 41320.1 to monitor and review the operations of the qualifying school district until the conditions of subdivision (b) of that section have been met.

(g) Notwithstanding subdivision (f), if the qualifying school district violates a provision of the recovery plans approved by the Superintendent pursuant to this article within five years after the trustee appointed pursuant to Section 41320.1 is removed or after the emergency apportionment is repaid, whichever occurs later, or the improvement plans specified in Section 41327.1 during the period of the trustee's appointment, the Superintendent may reassume, either directly or through an administrator appointed in accordance with this section, all of the legal rights, duties, and powers of the governing board of the qualifying school district. The Superintendent shall return to the governing board of the qualifying school district all of its legal rights, duties, and powers reassumed under this subdivision when he or she determines that future compliance with the approved recovery plans is probable, or after a period of one year, whichever occurs later.

(h) Article 2 (commencing with Section 41320) shall apply except as otherwise specified in this article.

(i) It is the intent of the Legislature that the legislative budget subcommittees annually conduct a review of each qualifying school district that includes an evaluation of the financial condition of the qualifying school district, the impact of the recovery plans upon the qualifying school district's educational program, and the efforts made by the state-appointed administrator to obtain input from the community and the governing board of the qualifying school district.

(j) (1) The district superintendent is entitled to a due process hearing for purposes of determining final compensation. The final compensation of the district superintendent shall be between zero and six times his or her monthly salary. The outcome of the due process hearing shall be reported to the Superintendent and the public. The information provided to the public shall explain the rationale for the compensation.

(2) This subdivision applies only to a contract for employment negotiated on or after June 21, 2004.

(k) (1) When the Superintendent assumes control over a school district pursuant to subdivision (b), he or she shall, in consultation with the County

Office Fiscal Crisis and Management Assistance Team, review the fiscal oversight of the qualifying school district by the county superintendent of schools. The Superintendent may consult with other fiscal experts, including other county superintendents of schools and regional fiscal teams, in conducting this review.

(2) Within three months of assuming control over a qualifying school district, the Superintendent shall report his or her findings to the Legislature and shall provide a copy of that report to the Department of Finance. This report shall include findings as to fiscal oversight actions that were or were not taken and may include recommendations as to an appropriate legislative response to improve fiscal oversight.

(3) If, after performing the duties described in paragraphs (1) and (2), the Superintendent determines that the county superintendent of schools failed to carry out his or her responsibilities for fiscal oversight as required by this code, the Superintendent may exercise the authority of the county superintendent of schools who has oversight responsibilities for a qualifying school district. If the Superintendent finds, based on the report required in paragraph (2), that the county superintendent of schools failed to appropriately take into account particular types of indicators of financial distress, or failed to take appropriate remedial actions in the qualifying school district, the Superintendent shall further investigate whether the county superintendent of schools failed to take into account those indicators, or similarly failed to take appropriate actions in other school districts with negative or qualified certifications, and shall provide an additional report on the fiscal oversight practices of the county superintendent of schools to the appropriate policy and fiscal committees of each house of the Legislature and the Department of Finance.

SEC. 5. Section 41344 of the Education Code is amended to read:

41344. (a) If, as the result of an audit or review, a local educational agency is required to repay an apportionment significant audit exception or to pay a penalty arising from an audit exception, the Superintendent and the Director of Finance, or their designees, jointly shall establish a plan for repayment of state school funds that the local educational agency received on the basis of average daily attendance, or other data, that did not comply with statutory or regulatory requirements that were conditions of the apportionments, or for payment of a penalty arising from an audit exception. A local educational agency shall request a plan within 90 days of receiving the final audit report or review, within 30 days of withdrawing or receiving a final determination regarding an appeal pursuant to subdivision (d), or, in the absence of an appeal pursuant to subdivision (d), within 30 days of withdrawing or receiving a determination of a summary review pursuant to subdivision (d) of Section 41344.1. At the time the local educational agency is notified, the Controller also shall be notified of the plan. The plan shall be established in accordance with the following:

(1) The Controller shall withhold the disallowed or penalty amount at the next principal apportionment or pursuant to paragraph (2), unless subdivision (d) of this section or subdivision (d) of Section 41344.1 applies,

in which case the disallowed or penalty amount shall be withheld, at the next principal apportionment or pursuant to paragraph (2) following the determination regarding the appeal or summary appeal. In calculating a disallowed amount, the Controller shall determine the total amount of overpayment received by the local educational agency on the basis of average daily attendance, or other data, reported by the local educational agency that did not comply with one or more statutory or regulatory requirements that are conditions of apportionment.

(2) If the Superintendent and the Director of Finance concur that repayment of the full liability or payment of the penalty in the current fiscal year would constitute a severe financial hardship for the local educational agency, they may approve a plan of equal annual payments over a period of up to eight years. The plan shall include interest on each year's outstanding balance at the rate earned on the state's Pooled Money Investment Account during that year. The Superintendent and the Director of Finance jointly shall establish this plan. The Controller shall withhold amounts pursuant to the plan.

(3) If the Superintendent and the Director of Finance do not jointly establish a plan, the Controller shall withhold the entire disallowed amount determined pursuant to paragraph (1), or the penalty amount, at the next principal apportionment.

(b) (1) For purposes of computing average daily attendance pursuant to Section 42238.5, a local educational agency's prior fiscal year average daily attendance shall be reduced by an amount equal to any average daily attendance disallowed in the current year, by an audit or review, as defined in subdivision (e).

(2) Commencing with the 1999–2000 fiscal year, this subdivision may not result in a local educational agency repaying more than the value of the average daily attendance disallowed in the audit exception plus interest and other penalties or reductions in apportionments as provided by existing law.

(c) Notwithstanding any other law, this section may not be waived under any authority set forth in this code except as provided in this section or Section 41344.1.

(d) Within 60 days of the date on which a local educational agency receives a final audit report resulting from an audit or review of all or any part of the operations of the local educational agency, or within 30 days of receiving a determination of a summary review pursuant to subdivision (d) of Section 41344.1, a local educational agency may appeal a finding contained in the final report, pursuant to Section 41344.1. Within 90 days of the date on which the appeal is received by the panel, a hearing shall be held at which the local educational agency may present evidence or arguments if the local educational agency believes that the final report contains any finding that was based on errors of fact or interpretation of law, or if the local educational agency believes in good faith that it was in substantial compliance with all legal requirements. A repayment schedule may not commence until the panel reaches a determination regarding the appeal. If the panel determines that the local educational agency is correct

in its assertion, in whole or in part, the allowable portion of any apportionment payment that was withheld shall be paid at the next principal apportionment.

(e) (1) As used in this section, “audit or review” means an audit conducted by the Controller’s office, an annual audit conducted by a certified public accountant or a public accounting firm pursuant to Section 41020, and an audit or review conducted by a governmental agency that provided the local educational agency with an opportunity to provide a written response.

(2) As used in this section, “local educational agency” includes a charter school.

SEC. 6. Section 42127 of the Education Code is amended to read:

42127. (a) On or before July 1 of each year, the governing board of each school district shall accomplish the following:

(1) Hold a public hearing on the budget to be adopted for the subsequent fiscal year. The budget to be adopted shall be prepared in accordance with Section 42126. The agenda for that hearing shall be posted at least 72 hours before the public hearing and shall include the location where the budget will be available for public inspection.

(A) For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, each school district budget shall project the same level of revenue per unit of average daily attendance as it received in the 2010–11 fiscal year and shall maintain staffing and program levels commensurate with that level.

(B) For the 2011–12 fiscal year, the school district shall not be required to demonstrate that it is able to meet its financial obligations for the two subsequent fiscal years.

(2) Adopt a budget. Not later than five days after that adoption or by July 1, whichever occurs first, the governing board of the school district shall file that budget with the county superintendent of schools. That budget and supporting data shall be maintained and made available for public review. If the governing board of the school district does not want all or a portion of the property tax requirement levied for the purpose of making payments for the interest and redemption charges on indebtedness as described in paragraph (1) or (2) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, the budget shall include a statement of the amount or portion for which a levy shall not be made.

(b) The county superintendent of schools may accept changes in any statement included in the budget, pursuant to subdivision (a), of the amount or portion for which a property tax levy shall not be made. The county superintendent of schools or the county auditor shall compute the actual amounts to be levied on the property tax rolls of the school district for purposes that exceed apportionments to the school district pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. Each school district shall provide all data needed by the county superintendent of schools or the county auditor to compute the amounts. On or before August 15, the county superintendent

of schools shall transmit the amounts computed to the county auditor who shall compute the tax rates necessary to produce the amounts. On or before September 1, the county auditor shall submit the rate computed to the board of supervisors for adoption.

(c) The county superintendent of schools shall do all of the following:

(1) Examine the adopted budget to determine whether it complies with the standards and criteria adopted by the state board pursuant to Section 33127 for application to final local educational agency budgets. The county superintendent of schools shall identify, if necessary, technical corrections that are required to be made to bring the budget into compliance with those standards and criteria.

(2) Determine whether the adopted budget will allow the school district to meet its financial obligations during the fiscal year and is consistent with a financial plan that will enable the school district to satisfy its multiyear financial commitments. In addition to his or her own analysis of the budget of each school district, the county superintendent of schools shall review and consider studies, reports, evaluations, or audits of the school district that were commissioned by the school district, the county superintendent of schools, the Superintendent, and state control agencies and that contain evidence that the school district is showing fiscal distress under the standards and criteria adopted in Section 33127 or that contain a finding by an external reviewer that more than three of the 15 most common predictors of a school district needing intervention, as determined by the County Office Fiscal Crisis and Management Assistance Team, are present. The county superintendent of schools shall either conditionally approve or disapprove a budget that does not provide adequate assurance that the school district will meet its current and future obligations and resolve any problems identified in studies, reports, evaluations, or audits described in this paragraph.

(d) On or before August 15, the county superintendent of schools shall approve, conditionally approve, or disapprove the adopted budget for each school district. If a school district does not submit a budget to the county superintendent of schools, the county superintendent of schools shall develop, at school district expense, a budget for that school district by September 15 and transmit that budget to the governing board of the school district. The budget prepared by the county superintendent of schools shall be deemed adopted, unless the county superintendent of schools approves any modifications made by the governing board of the school district. The approved budget shall be used as a guide for the school district's priorities. The Superintendent shall review and certify the budget approved by the county. If, pursuant to the review conducted pursuant to subdivision (c), the county superintendent of schools determines that the adopted budget for a school district does not satisfy paragraph (1) or (2) of that subdivision, he or she shall conditionally approve or disapprove the budget and, not later than August 15, transmit to the governing board of the school district, in writing, his or her recommendations regarding revision of the budget and the reasons for those recommendations, including, but not limited to, the

amounts of any budget adjustments needed before he or she can approve that budget. The county superintendent of schools may assign a fiscal adviser to assist the school district to develop a budget in compliance with those revisions. In addition, the county superintendent of schools may appoint a committee to examine and comment on the superintendent's review and recommendations, subject to the requirement that the committee report its findings to the county superintendent of schools no later than August 20. For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, the county superintendent of schools, as a condition on approval of a school district budget, shall not require a school district to project a lower level of revenue per unit of average daily attendance than it received in the 2010–11 fiscal year nor require the school district to demonstrate that it is able to meet its financial obligations for the two subsequent fiscal years.

(e) On or before September 8, the governing board of the school district shall revise the adopted budget to reflect changes in projected income or expenditures subsequent to July 1, and to include any response to the recommendations of the county superintendent of schools, shall adopt the revised budget, and shall file the revised budget with the county superintendent of schools. Before revising the budget, the governing board of the school district shall hold a public hearing regarding the proposed revisions, to be conducted in accordance with Section 42103. In addition, if the adopted budget is disapproved pursuant to subdivision (d), the governing board of the school district and the county superintendent of schools shall review the disapproval and the recommendations of the county superintendent of schools regarding revision of the budget at the public hearing. The revised budget and supporting data shall be maintained and made available for public review.

(1) For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, each school district budget shall project the same level of revenue per unit of average daily attendance as it received in the 2010–11 fiscal year and shall maintain staffing and program levels commensurate with that level.

(2) For the 2011–12 fiscal year, the school district shall not be required to demonstrate that it is able to meet its financial obligations for the two subsequent fiscal years.

(f) On or before September 22, the county superintendent of schools shall provide a list to the Superintendent identifying all school districts for which budgets may be disapproved.

(g) The county superintendent of schools shall examine the revised budget to determine whether it (1) complies with the standards and criteria adopted by the state board pursuant to Section 33127 for application to final local educational agency budgets, (2) allows the school district to meet its financial obligations during the fiscal year, (3) satisfies all conditions established by the county superintendent of schools in the case of a conditionally approved budget, and (4) is consistent with a financial plan that will enable the school district to satisfy its multiyear financial commitments, and, not later than

October 8, shall approve or disapprove the revised budget. If the county superintendent of schools disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 42127.1, unless the governing board of the school district and the county superintendent of schools agree to waive the requirement that a budget review committee be formed and the department approves the waiver after determining that a budget review committee is not necessary. Upon the grant of a waiver, the county superintendent of schools immediately has the authority and responsibility provided in Section 42127.3. Upon approving a waiver of the budget review committee, the department shall ensure that a balanced budget is adopted for the school district by November 30. If no budget is adopted by November 30, the Superintendent may adopt a budget for the school district. The Superintendent shall report to the Legislature and the Director of Finance by December 10 if any school district, including a school district that has received a waiver of the budget review committee process, does not have an adopted budget by November 30. This report shall include the reasons why a budget has not been adopted by the deadline, the steps being taken to finalize budget adoption, the date the adopted budget is anticipated, and whether the Superintendent has or will exercise his or her authority to adopt a budget for the school district. For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, the county superintendent of schools, as a condition on approval of a school district budget, shall not require a school district to project a lower level of revenue per unit of average daily attendance than it received in the 2010–11 fiscal year nor require the school district to demonstrate that it is able to meet its financial obligations for the two subsequent fiscal years.

(h) Not later than October 8, the county superintendent of schools shall submit a report to the Superintendent identifying all school districts for which budgets have been disapproved or budget review committees waived. The report shall include a copy of the written response transmitted to each of those school districts pursuant to subdivision (d).

(i) Notwithstanding any other provision of this section, the budget review for a school district shall be governed by paragraphs (1), (2), and (3), rather than by subdivisions (e) and (g), if the governing board of the school district so elects and notifies the county superintendent of schools in writing of that decision, not later than October 31 of the immediately preceding calendar year. On or before July 1, the governing board of a school district for which the budget review is governed by this subdivision, rather than by subdivisions (e) and (g), shall conduct a public hearing regarding its proposed budget in accordance with Section 42103.

(1) If the adopted budget of a school district is disapproved pursuant to subdivision (d), on or before September 8, the governing board of the school district, in conjunction with the county superintendent of schools, shall review the superintendent's recommendations at a regular meeting of the governing board of the school district and respond to those recommendations.

The response shall include any revisions to the adopted budget and other proposed actions to be taken, if any, as a result of those recommendations.

(2) On or before September 22, the county superintendent of schools shall provide a list to the Superintendent identifying all school districts for which a budget may be tentatively disapproved.

(3) Not later than October 8, after receiving the response required under paragraph (1), the county superintendent of schools shall review that response and either approve or disapprove the budget. If the county superintendent of schools disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 42127.1, unless the governing board of the school district and the county superintendent of schools agree to waive the requirement that a budget review committee be formed and the department approves the waiver after determining that a budget review committee is not necessary. Upon the grant of a waiver, the county superintendent has the authority and responsibility provided to a budget review committee in Section 42127.3. Upon approving a waiver of the budget review committee, the department shall ensure that a balanced budget is adopted for the school district by November 30. The Superintendent shall report to the Legislature and the Director of Finance by December 10 if any school district, including a school district that has received a waiver of the budget review committee process, does not have an adopted budget by November 30. This report shall include the reasons why a budget has not been adopted by the deadline, the steps being taken to finalize budget adoption, and the date the adopted budget is anticipated. For the 2011–12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, the county superintendent of schools, as a condition on approval of a school district budget, shall not require a school district to project a lower level of revenue per unit of average daily attendance than it received in the 2010–11 fiscal year nor require the school district to demonstrate that it is able to meet its financial obligations for the two subsequent fiscal years.

(4) Not later than 45 days after the Governor signs the annual Budget Act, the school district shall make available for public review any revisions in revenues and expenditures that it has made to its budget to reflect the funding made available by that Budget Act.

(j) Any school district for which the county board of education serves as the governing board of the school district is not subject to subdivisions (c) to (h), inclusive, but is governed instead by the budget procedures set forth in Section 1622.

SEC. 7. Section 42131 of the Education Code is amended to read:

42131. (a) (1) Pursuant to the reports required by Section 42130, the governing board of each school district shall certify, in writing, within 45 days after the close of the period being reported, whether the school district is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for the subsequent fiscal year. These certifications shall be based upon the governing board of the school district's assessment, on the basis of standards and criteria for fiscal stability adopted

by the state board pursuant to Section 33127, of the school district budget, as revised to reflect current information regarding the adopted State Budget, school district property tax revenues pursuant to Sections 95 to 100, inclusive, of the Revenue and Taxation Code, and ending balances for the preceding fiscal year as reported pursuant to Section 42100. The certifications shall be classified as positive, qualified, or negative, as prescribed by the Superintendent for purposes of determining subsequent actions by the Superintendent, the Controller, or the county superintendent of schools, pursuant to subdivisions (b) and (c). These certifications shall be based upon the financial and budgetary reports required by Section 42130 but may include additional financial information known by the governing board of the school district to exist at the time of each certification. For purposes of this subdivision, a negative certification shall be assigned to any school district that, based upon current projections, will be unable to meet its financial obligations for the remainder of the fiscal year or the subsequent fiscal year. A qualified certification shall be assigned to any school district that, based upon current projections, may not meet its financial obligations for the current fiscal year or two subsequent fiscal years. A positive certification shall be assigned to any school district that, based upon current projections, will meet its financial obligations for the current fiscal year and subsequent two fiscal years.

(2) (A) A copy of each certification and a copy of the report submitted to the governing board of the school district pursuant to Section 42130 shall be filed with the county superintendent of schools. If a county office of education receives a positive certification when it determines a negative or qualified certification should have been filed, or receives a qualified certification when it determines a negative certification should have been filed, the county superintendent of schools shall change the certification to negative or qualified, as appropriate, and, no later than 75 days after the close of the period being reported, shall provide notice of that action to the governing board of the school district and to the Superintendent. No later than five days after a school district receives notice from the county superintendent of schools of a change in the school district's certification to negative or qualified, the governing board of the school district may submit an appeal to the Superintendent regarding the validity of that change, in accordance with the criteria applied to those designations pursuant to this subdivision. No later than 10 days after receiving that appeal, the Superintendent shall determine the certification to be assigned to the school district and shall notify the governing board of the school district and the county superintendent of schools of that determination.

(B) Copies of any certification in which the governing board of the school district is unable to certify unqualifiedly that these financial obligations will be met and a copy of the report submitted to the governing board of the school district pursuant to Section 42130 shall be sent by the county office of education to the Controller and the Superintendent at the time of the certification, together with a completed transmittal form provided by the Superintendent. Within 75 days after the close of the reporting period on

all school district certifications that are classified as qualified or negative pursuant to this section, the appropriate county superintendent of schools shall submit to the Superintendent and the Controller his or her comments on those certifications and report any action proposed or taken pursuant to subdivision (b).

(3) All reports and certifications required under this subdivision shall be in a format or on forms prescribed by the Superintendent and shall be based on standards and criteria for fiscal stability adopted by the state board pursuant to Section 33127.

(4) This subdivision does not preclude the submission of additional budgetary or financial reports by the county superintendent of schools to the governing board of the school district, or to the Superintendent.

(b) As to any school district having a negative or qualified certification, the county superintendent of schools shall exercise his or her authority, as necessary, pursuant to Section 42127.6.

(c) Within 75 days after the close of each reporting period, each county superintendent of schools shall report to the Controller and the Superintendent as to whether the governing board of each of the school districts under his or her jurisdiction has submitted the certification required by subdivision (a). That report shall account for all school districts under the jurisdiction of the county office of education and indicate the type of certification filed by each school district.

(d) The Controller's office may conduct an audit or review of the fiscal condition of any school district having a negative or qualified certification.

(e) The governing board of each school district filing a qualified or negative certification for the second report required under Section 42130, or classified as qualified or negative by the county superintendent of schools, shall provide to the county superintendent of schools, the Controller, and the Superintendent no later than June 1, financial statement projections of the school district's fund and cash balances through June 30 for the period ending April 30. The governing boards of all other school districts are encouraged to develop a similar financial statement for use in developing the beginning fund balances of the school district for the ensuing fiscal year.

(f) Any school district for which the county board of education serves as the governing board of the school district is not subject to subdivisions (a) to (f), inclusive, but is governed instead by the interim report, monitoring, and review procedures set forth in subdivision (I) of Section 1240 and in Article 2 (commencing with Section 1620) of Chapter 5 of Part 2.

SEC. 8. Section 42238.12 of the Education Code is amended to read:

42238.12. (a) For the 1995–96 fiscal year and each fiscal year thereafter, the county superintendent of schools shall adjust the total revenue limit for each school district in the jurisdiction of the county superintendent of schools by the amount of increased or decreased employer contributions to the Public Employees' Retirement System resulting from the enactment of Chapter 330 of the Statutes of 1982, adjusted for any changes in those contributions resulting from subsequent changes in employer contribution rates, excluding rate changes due to the direct transfer of the state-mandated portion of the

employer contributions to the Public Employees' Retirement System, through the current fiscal year. The adjustment shall be calculated for each school district, as follows:

(1) (A) Determine the amount of employer contributions that would have been made in the current fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately before the enactment of Chapter 330 of the Statutes of 1982 were in effect during the current fiscal year.

(B) For purposes of this calculation, no school district shall have a contribution rate higher than 13.020 percent.

(2) Determine the actual amount of employer contributions made to the Public Employees' Retirement System in the current fiscal year.

(3) If the amount determined in paragraph (1) for a school district is greater than the amount determined in paragraph (2), the total revenue limit computed for that school district shall be decreased by the amount of the difference between those paragraphs; or, if the amount determined in paragraph (1) for a school district is less than the amount determined in paragraph (2), the total revenue limit for that school district shall be increased by the amount of the difference between those paragraphs.

(4) For the purpose of this section, employer contributions to the Public Employees' Retirement System for any of the following positions shall be excluded from the calculation specified above:

(A) Positions or portions of positions supported by federal funds that are subject to supplanting restrictions.

(B) Positions supported by funds received pursuant to Section 41540 that are established in order to satisfy court-ordered desegregation requirements.

(C) Positions supported, to the extent of employers' contributions not exceeding twenty-five thousand dollars (\$25,000) by any single educational agency, from a non-General Fund revenue source determined to be properly excludable from this section by the Superintendent with the approval of the Director of Finance. Commencing in the 2002–03 fiscal year, only positions supported from a non-General Fund revenue source determined to be properly excludable as identified for a particular local educational agency or pursuant to a blanket waiver by the Superintendent and the Director of Finance, before the 2002–03 fiscal year, may be excluded pursuant to this paragraph.

(5) For accounting purposes, any reduction to school district revenue limits made by this provision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent.

(6) The amount of the increase or decrease to the revenue limits of school districts computed pursuant to paragraph (3) for the 1995–96 to 2002–03 fiscal years, inclusive, may not be adjusted by the deficit factor applied to the revenue limit of each school district pursuant to Section 42238.145.

(7) For the 2003–04 fiscal year and any fiscal year thereafter, the revenue limit reduction specified in Section 42238.146 may not be applied to the

amount of the increase or decrease to the revenue limits of school districts computed pursuant to paragraph (3).

(b) The calculations set forth in paragraphs (1) to (3), inclusive, of subdivision (a) exclude employer contributions for employees of charter schools funded pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(c) Funding appropriated through the Budget Act of 2001 or legislation amending the Budget Act of 2001 for the purpose of limiting the reductions to revenue limits calculated pursuant to this section and to Section 2558 for the 2001–02 fiscal year shall be allocated on a one-time basis in the following manner:

(1) Each school district and county office of education subject to a reduced apportionment pursuant to this section or to Section 2558 shall receive a share of the amount described in paragraph (3) that is proportionate to the reduction in their apportionment pursuant to this section or to Section 2558 for the 2001–02 fiscal year as compared to the statewide total reduction that would occur absent this paragraph.

(2) For the 2001–02 fiscal year, instead of the alternative calculation authorized by paragraph (1), San Francisco Unified School District shall receive an amount equal to five dollars and 57 cents (\$5.57) multiplied by its second principal apportionment average daily attendance for the 2001–02 fiscal year.

(3) Notwithstanding any other law, total allocations pursuant to this subdivision may not exceed thirty-five million dollars (\$35,000,000).

(d) Thirty-five million dollars (\$35,000,000) is hereby appropriated from the General Fund for transfer to Section A of the State School Fund for local assistance for the purpose of limiting the reductions to revenue limits calculated pursuant to this section and to Section 2558 for the 2003–04 fiscal year. Funding from this appropriation shall be allocated in the following manner:

(1) Each school district and county office of education subject to a reduced apportionment pursuant to this section or to Section 2558 shall receive a share of the amount appropriated in this subdivision that is proportionate to the reduction in their apportionment pursuant to this section or to Section 2558 for the 2003–04 fiscal year as compared to the statewide total reduction that would occur absent this paragraph.

(2) For the 2003–04 fiscal year, instead of the alternative calculation authorized by paragraph (1), the San Francisco Unified School District shall receive an amount equal to five dollars and 57 cents (\$5.57) multiplied by its second principal apportionment average daily attendance for the 2003–04 fiscal year.

(3) Notwithstanding any other law, total allocations pursuant to this subdivision may not exceed thirty-five million dollars (\$35,000,000) for the 2003–04 fiscal year.

(4) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this section shall be deemed to be “General Fund revenues appropriated for

school districts,” as defined in subdivision (c) of Section 41202, for the 2003–04 fiscal year and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202, for the 2003–04 fiscal year.

(e) For the 2004–05 fiscal year, and each fiscal year thereafter, apportionment reductions pursuant to this section and to Section 2558 shall be limited as follows:

(1) Each school district and county office of education subject to a reduced apportionment pursuant to this section or to Section 2558 shall receive a share of the amount described in paragraph (3) that is proportionate to the reduction in their apportionment pursuant to this section or to Section 2558 for the 2004–05 fiscal year as compared to the statewide total reduction as would occur absent this paragraph.

(2) Instead of the alternative calculation authorized by paragraph (1), the San Francisco Unified School District shall receive funding equal to the amount of funding per unit of average daily attendance specified in paragraph (2) of subdivision (c) as increased annually by cost-of-living adjustments specified in Section 42238.1, multiplied by its second principal apportionment average daily attendance for that fiscal year.

(3) Notwithstanding any other law, total limitations pursuant to this subdivision may not annually exceed thirty-five million dollars (\$35,000,000) as annually increased by the cost-of-living adjustments specified in Section 42238.1, multiplied by the annual statewide percentage growth in total average daily attendance, measured at the second principal apportionment.

SEC. 9. Section 48070.6 of the Education Code is amended to read:

48070.6. (a) On or before August 1, 2011, and annually thereafter, utilizing data produced by the California Longitudinal Pupil Achievement Data System pursuant to Section 60900 and other available data, the Superintendent shall submit to the Governor, the Legislature, and the state board a report that shall be called the Annual Report on Dropouts in California. The report shall include, but not be limited to, all of the following:

- (1) One-year dropout rates for each of grades 7 to 12, inclusive.
- (2) Four-year cohort dropout rates for grades 9 to 12, inclusive.
- (3) Two- or three-year cohort dropout rates, as appropriate, for middle schools.
- (4) Grade 9 to grade 10 promotion rates.
- (5) Percentage of high school pupils for each of grades 9 to 12, inclusive, who are on track to earn sufficient credits to graduate.
- (6) The average number of nonpromotional school moves that pupils make between grades 6 to 12, inclusive.
- (7) “Full-year” dropout rates for alternative schools, including dropout recovery high schools, calculated using a methodology developed by the Superintendent to appropriately reflect dropout rates in each type of alternative school.
- (8) An explanation of the methodology or methodologies used to calculate “full-year” dropout rates for alternative schools pursuant to paragraph (7).

(9) Passage rates on the high school exit examination adopted pursuant to subdivision (a) of Section 60850.

(10) Other available data relating to dropout or graduation rates or pupil progress toward high school graduation.

(b) When cohort dropout rates can be calculated accurately using longitudinal data, the rates described in paragraph (3) of subdivision (a) shall be replaced by dropout rates for cohorts of pupils entering middle school.

(c) When data is available, the report shall also include all of the following:

(1) Rates at which pupils graduate in four, five, and six years, pursuant to subparagraph (A) of paragraph (4) of subdivision (a) of Section 52052.

(2) Percentage of high school graduates and dropouts who completed courses that are certified by the University of California as meeting admission requirement criteria for the University of California and California State University systems.

(3) Percentage of high school graduates and dropouts who completed two or more classes in career technical education.

(4) Percentage of high school graduates and dropouts who completed both course sequences described in paragraphs (2) and (3).

(5) Behavioral data by school and district, including suspensions and expulsions.

(6) Truancy rates.

(7) GED earning rates.

(8) Chronic absentee rates, as defined in Section 60901.

(d) If possible, the data listed in subdivisions (a) and (b) shall be presented in the report, organized as follows:

(1) By state.

(2) By county.

(3) By school district, both including and excluding charter schools.

(4) By school.

(e) The report shall include data from alternative middle and high schools, including continuation high schools, community day schools, juvenile court schools, special schools, opportunity schools, and schools attended by wards of the Department of Corrections and Rehabilitation, Division of Juvenile Justice.

(f) The report may include relevant data on school climate and pupil engagement from the California Healthy Kids Survey.

(g) If possible, the data listed in subdivisions (a) and (b) shall be presented for the following subgroups, if the subgroup consists of at least 50 pupils, and the subgroup constitutes at least 15 percent of the total population of pupils at a school:

(1) Grade level.

(2) Ethnicity.

(3) Gender.

(4) Low socioeconomic status.

(5) English learners.

(6) Special education status.

(h) The first Annual Report on Dropouts in California shall include data from the most recent year. Subsequent annual reports shall include data from the most recent year and, at a minimum, the two prior years, so that comparisons can be made easily.

(i) The Superintendent or his or her designee shall make an oral presentation of the contents of the report to the state board at a regularly scheduled meeting of the state board.

(j) The Superintendent shall make the contents of the report available on the department's Internet Web site in a format that is easy for the public to access and understand.

(k) If inclusion of school-level data would render the written report unwieldy, the data may be omitted from the written report and posted on the department's Internet Web site.

(l) It is the intent of the Legislature that the report prepared by the Superintendent be usable by schools, school districts, policymakers, researchers, parents, and the public, for purposes of identifying and understanding trends, causal relations, early warning indicators, and potential points of intervention to address the high rate of dropouts in California.

(m) For purposes of this section, dropouts shall be defined using the exit/withdrawal codes developed by the department.

(n) For purposes of this section, "dropout recovery high school" has the same meaning as defined in subparagraph (D) of paragraph (4) of subdivision (a) of Section 52052.

SEC. 9.5. Section 48070.6 of the Education Code is amended to read:

48070.6. (a) On or before August 1, 2011, and annually thereafter, utilizing data produced by the California Longitudinal Pupil Achievement Data System pursuant to Section 60900 and other available data, the Superintendent shall submit to the Governor, the Legislature, and the state board a report that shall be called the Annual Report on Dropouts in California. The report shall include, but not be limited to, all of the following:

(1) One-year dropout rates for each of grades 7 to 12, inclusive.

(2) Four-year cohort dropout rates for grades 9 to 12, inclusive.

(3) Two- or three-year cohort dropout rates, as appropriate, for middle schools.

(4) Grade 9 to grade 10 promotion rates.

(5) Percentage of high school pupils for each of grades 9 to 12, inclusive, who are on track to earn sufficient credits to graduate.

(6) The average number of nonpromotional school moves that pupils make between grades 6 to 12, inclusive.

(7) "Full-year" dropout rates for alternative schools, including dropout recovery high schools, calculated using a methodology developed by the Superintendent to appropriately reflect dropout rates in each type of alternative school.

(8) An explanation of the methodology or methodologies used to calculate "full-year" dropout rates for alternative schools pursuant to paragraph (7).

(9) Passage rates on the high school exit examination adopted pursuant to subdivision (a) of Section 60850.

(10) Other available data relating to dropout or graduation rates or pupil progress toward high school graduation.

(b) When cohort dropout rates can be calculated accurately using longitudinal data, the rates described in paragraph (3) of subdivision (a) shall be replaced by dropout rates for cohorts of pupils entering middle school.

(c) When data is available, the report shall also include all of the following:

(1) Rates at which pupils graduate in four, five, and six years, pursuant to subparagraph (A) of paragraph (4) of subdivision (a) of Section 52052.

(2) Percentage of high school graduates and dropouts who completed courses that are certified by the University of California as meeting admission requirement criteria for the University of California and California State University systems.

(3) Percentage of high school graduates and dropouts who completed two or more classes in career technical education.

(4) Percentage of high school graduates and dropouts who completed both course sequences described in paragraphs (2) and (3).

(5) Behavioral data by school and district, including suspensions and expulsions.

(6) Truancy rates.

(7) GED earning rates.

(8) Chronic absentee rates, as defined in Section 60901.

(d) If possible, the data listed in subdivisions (a) and (b) shall be presented in the report, organized as follows:

(1) By state.

(2) By county.

(3) By school district, both including and excluding charter schools.

(4) By school.

(e) The report shall include data from alternative middle and high schools, including continuation high schools, community day schools, juvenile court schools, special schools, opportunity schools, and schools attended by wards of the Department of Corrections and Rehabilitation, Division of Juvenile Justice.

(f) The report may include relevant data on school climate and pupil engagement from the California Healthy Kids Survey.

(g) If possible, the data listed in subdivisions (a) and (b) shall be presented for the following subgroups, if the subgroup consists of at least 50 pupils, and the subgroup constitutes at least 15 percent of the total population of pupils at a school:

(1) Grade level.

(2) Ethnicity.

(3) Gender.

(4) Low socioeconomic status.

(5) English learners.

(6) Special education status.

(h) The first Annual Report on Dropouts in California shall include data from the most recent year. Subsequent annual reports shall include data from the most recent year and, at a minimum, the two prior years, so that comparisons can be made easily.

(i) The Superintendent or his or her designee shall make an oral presentation of the contents of the report to the state board at a regularly scheduled meeting of the state board.

(j) The Superintendent shall make the contents of the report available on the department's Internet Web site in a format that is easy for the public to access and understand.

(k) If inclusion of school-level data would render the written report unwieldy, the data may be omitted from the written report and posted on the department's Internet Web site.

(l) It is the intent of the Legislature that the report prepared by the Superintendent be usable by schools, school districts, policymakers, researchers, parents, and the public, for purposes of identifying and understanding trends, causal relations, early warning indicators, and potential points of intervention to address the high rate of dropouts in California.

(m) For purposes of this section, dropouts shall be defined using the exit/withdrawal codes developed by the department.

(n) A pupil shall not be included in the dropout rates indicated in the report more than one time.

(o) For purposes of this section, "dropout recovery high school" has the same meaning as defined in subparagraph (D) of paragraph (4) of subdivision (a) of Section 52052.

SEC. 10. Section 48904 of the Education Code is amended to read:

48904. (a) (1) Notwithstanding Section 1714.1 of the Civil Code, the parent or guardian of any minor whose willful misconduct results in injury or death to any pupil or any person employed by, or performing volunteer services for, a school district or private school or who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district or private school, or personal property of any school employee, shall be liable for all damages so caused by the minor. The liability of the parent or guardian shall not exceed ten thousand dollars (\$10,000), adjusted annually for inflation. The parent or guardian shall be liable also for the amount of any reward not exceeding ten thousand dollars (\$10,000), adjusted annually for inflation, paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a minor shall be liable to a school district or private school for all property belonging to the school district or private school loaned to the minor and not returned upon demand of an employee of the school district or private school authorized to make the demand.

(2) The Superintendent annually shall compute an adjustment of the liability limits prescribed by this subdivision to reflect the percentage change in the average annual value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as

published by the United States Department of Commerce for the 12-month period ending in the prior fiscal year. The annual adjustment shall be rounded to the nearest one hundred dollars (\$100).

(b) (1) Any school district or private school whose real or personal property has been willfully cut, defaced, or otherwise injured, or whose property is loaned to a pupil and willfully not returned upon demand of an employee of the school district or private school authorized to make the demand may, after affording the pupil his or her due process rights, withhold the grades, diploma, and transcripts of the pupil responsible for the damage until the pupil or the pupil's parent or guardian has paid for the damages thereto, as provided in subdivision (a).

(2) The school district or private school shall notify the parent or guardian of the pupil in writing of the pupil's alleged misconduct before withholding the pupil's grades, diploma, or transcripts pursuant to this subdivision. When the minor and parent are unable to pay for the damages, or to return the property, the school district or private school shall provide a program of voluntary work for the minor in lieu of the payment of monetary damages. Upon completion of the voluntary work, the grades, diploma, and transcripts of the pupil shall be released.

(3) The governing board of each school district or governing body of each private school shall establish rules and regulations governing procedures for the implementation of this subdivision. The procedures shall conform to, but are not necessarily limited to, those procedures established in this code for the expulsion of pupils.

SEC. 11. Section 49550.3 of the Education Code is amended to read:

49550.3. (a) Because a hungry child cannot learn, the Legislature intends, as a state nutrition and health policy, that the School Breakfast Program be made available in all schools where it is needed to provide adequate nutrition for children in attendance.

(b) The department, in cooperation with school districts and county superintendents of schools, shall provide information and limited financial assistance to encourage program startup and expansion into all qualified schools, as follows:

(1) Provide information to school districts and county superintendents of schools concerning the benefits and availability of the School Breakfast Program.

(2) Each year, provide additional information and financial assistance to schools in the state, in which 20 percent or more of the school enrollment consists of children who have applied and qualify for free and reduced-price meals.

(c) The department shall award grants of up to fifteen thousand dollars (\$15,000) per schoolsite on a competitive basis to school districts, county superintendents of schools, or entities approved by the department, limited to an amount subject to budget appropriations each fiscal year, for nonrecurring expenses incurred in initiating or expanding a school breakfast program under this section or a summer food service program pursuant to Article 10.7 (commencing with Section 49547).

(d) Grants awarded under this section shall be used for nonrecurring costs of initiating or expanding a school breakfast program or a summer food service program, including the acquisition of equipment, training of staff in new capacities, outreach efforts to publicize new or expanded school breakfast programs or summer food service programs, minor alterations to accommodate new equipment, computer point-of-service systems for food service, and the purchase of vehicles for transporting food to schools. Funds may not be used for salaries and benefits of staff, food, computers, except computer point-of-service systems, or capital outlay.

(e) In making grant awards under this section in any fiscal year, the department shall give a preference to school districts and county superintendents of schools that do all of the following:

(1) Submit to the department a plan to start or expand school breakfast programs or summer food service programs in the school district or the county, including a description of the following:

(A) The manner in which the school district or county superintendent of schools will provide technical assistance and funding to schoolsites to expand those programs.

(B) Detailed information on the nonrecurring expenses needed to initiate a program.

(C) Public or private resources that have been assembled to carry out expansion of these programs during that year.

(2) Agree to operate the breakfast program or the summer food service program for a period of not less than three years.

(3) Assure that the expenditure of funds from state and local resources for the maintenance of the breakfast program or the summer food service program shall not be diminished as a result of grant awards received under this section.

SEC. 12. Section 51765 of the Education Code is amended to read:

51765. (a) The governing board of a school district that establishes and supervises a work experience education program in which pupils with intellectual disabilities are employed in part-time jobs may use funds derived from any source, to the extent permissible by appropriate law or regulation, to pay the wages of pupils so employed.

(b) The Legislature hereby finds and declares that the authority granted by this section is necessary to ensure that the work experience education program will continue to provide maximum educational benefit to pupils, particularly pupils with intellectual disabilities, and that the program is deemed to serve a public purpose.

SEC. 13. Section 60605.86 of the Education Code is amended to read:

60605.86. (a) The department shall recommend, and the state board shall approve, evaluation criteria to guide the development and review of supplemental instructional materials.

(b) Notwithstanding any other law, and on a one-time basis, the department shall develop a list, on or before July 1, 2012, of supplemental instructional materials for use in kindergarten and grades 1 to 8, inclusive, that are aligned with the California common core academic content standards

for language arts and for use in kindergarten and grades 1 to 7, inclusive, that are aligned with the California common core academic content standards for mathematics. The supplemental instructional materials shall provide a bridge between the California common core academic content standards and the standards-aligned instructional materials currently being used by local educational agencies.

(c) (1) The department shall recommend, and the state board shall approve, content review experts to review, in an open and transparent process, supplemental instructional materials submitted for approval in the subject areas of mathematics and English language arts.

(2) The majority of content review experts approved pursuant to paragraph (1) shall be teachers who are credentialed in the subject area they are reviewing. The content review experts also shall include appropriate persons from postsecondary educational institutions and school and school district curriculum administrators, and other persons who are knowledgeable in the appropriate subject area.

(3) The content review experts shall serve without compensation.

(d) (1) On or before September 30, 2012, the state board shall do the following:

(A) Approve all, or a portion, of the list of supplemental instructional materials proposed by the department, taking into consideration the review of the content review experts and any other relevant information, as appropriate.

(B) Reject all, or a portion, of the list of supplemental instructional materials proposed by the department, taking into consideration the review of the content review experts and any other relevant information, as appropriate.

(2) The state board may add an item to the list of supplemental instructional materials proposed by the department.

(3) If the state board rejects all, or a portion, of the list of supplemental instructional materials proposed by the department, or adds an item to the list, the state board, in a public meeting held pursuant to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), shall provide written reasons for the removal or addition of an item on the list. The state board shall not approve a supplemental instructional material it adds to the list at the same time it provides its written reason for adding the material; instead, the state board shall approve the added material at a subsequent public meeting.

(e) (1) The governing boards of school districts and county offices of education may approve supplemental instructional materials other than those approved by the state board pursuant to subdivision (d) if the governing board of the school district or county office of education determines that other supplemental instructional materials are aligned with the California common core academic content standards and meet the needs of the pupils of the school district or county office of education. The governing board of a school district and a county office of education may only approve

supplemental instructional materials that comply with the evaluation criteria approved pursuant to subdivision (a) and the requirements of Section 60226, subdivision (h), and Article 4 (commencing with Section 60060).

(2) (A) A supplemental instructional material approved by a governing board of a school district or a county office of education pursuant to this subdivision that is in the subject area of mathematics or English language arts shall be reviewed by content review experts chosen by the governing board of the school district or county office of education.

(B) The majority of the content review experts chosen pursuant to subparagraph (A) shall be teachers who are credentialed in the subject area they are reviewing. The content review experts shall include appropriate persons from postsecondary educational institutions and school and school district or county office of education curriculum administrators, and other persons who are knowledgeable in the appropriate subject area.

(C) The content review experts shall serve without compensation.

(f) Publishers choosing to submit supplemental instructional materials for approval by the state board shall submit standards maps.

(g) (1) Before approving supplemental instructional materials pursuant to this section, the state board shall review those instructional materials for academic content, social content, and instructional support to teachers and pupils. Supplemental instructional materials approved by the state board pursuant to this section shall meet required program criteria for grade-level programs, intervention programs, and English learners and shall include materials for use by teachers.

(2) Before approving supplemental instructional materials pursuant to this section, the governing board of a school district or a county office of education shall review those instructional materials for academic content and instructional support to teachers and pupils. Supplemental instructional materials approved by the governing board of a school district or a county office of education pursuant to this section shall meet required program criteria for grade-level programs, intervention programs, and English learners, and shall include materials for use by teachers.

(h) Supplemental instructional materials approved pursuant to this section shall comply with the social content review requirements that would be imposed by Assembly Bill 339 of the 2011–12 Regular Session if that bill becomes operative; otherwise, the governing board of a school district or a county office of education shall review supplemental instructional materials for social content in compliance with Article 3 (commencing with Section 60040).

(i) The department shall maintain on its Internet Web site the list of supplemental instructional materials approved by the state board pursuant to subdivision (d).

(j) The department shall use federal carryover funds received pursuant to Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) to implement this section.

(k) This section shall become inoperative on July 1, 2014, and, as of July 1, 2015, is repealed, unless a later enacted statute, that becomes operative

on or before July 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 14. Section 8880.5 of the Government Code is amended to read:

8880.5. Allocations for education:

The California State Lottery Education Fund is created within the State Treasury, and is continuously appropriated for carrying out the purposes of this chapter. The Controller shall draw warrants on this fund and distribute them quarterly in the following manner, provided that the payments specified in subdivisions (a) to (g), inclusive, shall be equal per capita amounts.

(a) (1) Payments shall be made directly to public school districts, including county superintendents of schools, serving kindergarten and grades 1 to 12, inclusive, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law and adjusted pursuant to subdivision (l).

(2) For purposes of this paragraph, in each of the 2008–09, 2009–10, 2010–11, 2011–12, 2012–13, 2013–14, and 2014–15 fiscal years, the number of units of average daily attendance in each of those fiscal years for programs for public school districts, including county superintendents of schools, serving kindergarten and grades 1 to 12, inclusive, shall include the same amount of average daily attendance for classes for adults and regional occupational centers and programs used in the calculation made pursuant to this subdivision for the 2007–08 fiscal year.

(b) Payments shall also be made directly to public school districts serving community colleges, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(c) Payments shall also be made directly to the Board of Trustees of the California State University on the basis of an amount for each unit of equivalent full-time enrollment. Funds received by the trustees shall be deposited in and expended from the California State University Lottery Education Fund, which is hereby created or, at the discretion of the trustees, deposited in local trust accounts in accordance with subdivision (j) of Section 89721 of the Education Code.

(d) Payments shall also be made directly to the Regents of the University of California on the basis of an amount for each unit of equivalent full-time enrollment.

(e) Payments shall also be made directly to the Board of Directors of the Hastings College of the Law on the basis of an amount for each unit of equivalent full-time enrollment.

(f) Payments shall also be made directly to the Department of the Youth Authority for educational programs serving kindergarten and grades 1 to 12, inclusive, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(g) Payments shall also be made directly to the two California Schools for the Deaf, the California School for the Blind, and the three Diagnostic Schools for Neurologically Handicapped Children, on the basis of an amount for each unit of equivalent full-time enrollment.

(h) Payments shall also be made directly to the State Department of Developmental Services and the State Department of Mental Health for clients with developmental or mental disabilities who are enrolled in state hospital education programs, including developmental centers, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(i) No Budget Act or other statutory provision shall direct that payments for public education made pursuant to this chapter be used for purposes and programs (including workload adjustments and maintenance of the level of service) authorized by Chapters 498, 565, and 1302 of the Statutes of 1983, Chapter 97 or 258 of the Statutes of 1984, or Chapter 1 of the Statutes of the 1983–84 Second Extraordinary Session.

(j) School districts and other agencies receiving funds distributed pursuant to this chapter may at their option utilize funds allocated by this chapter to provide additional funds for those purposes and programs prescribed by subdivision (i) for the purpose of enrichment or expansion.

(k) As a condition of receiving any moneys pursuant to subdivision (a) or (b), each school district and county superintendent of schools shall establish a separate account for the receipt and expenditure of those moneys, which account shall be clearly identified as a lottery education account.

(l) Commencing with the 1998–99 fiscal year, and each year thereafter, for purposes of subdivision (a), average daily attendance shall be increased by the statewide average rate of excused absences for the 1996–97 fiscal year as determined pursuant to the provisions of Chapter 855 of the Statutes of 1997. The statewide average excused absence rate, and the corresponding adjustment factor required for the operation of this subdivision, shall be certified to the State Controller by the Superintendent of Public Instruction.

(m) It is the intent of this chapter that all funds allocated from the California State Lottery Education Fund shall be used exclusively for the education of pupils and students and no funds shall be spent for acquisition of real property, construction of facilities, financing of research, or any other noninstructional purpose.

SEC. 15. Section 75.70 of the Revenue and Taxation Code is amended to read:

75.70. (a) Notwithstanding any other law, for the 1983–84 fiscal year, each county auditor shall allocate to all elementary, high school, and unified school districts within the county in proportion to each school district's average daily attendance, as certified by the Superintendent of Public Instruction for purposes of the advance apportionment of state aid in the then current fiscal year, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, and without respect to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, an amount equal to the additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments for the current roll under this chapter. Additional revenues generated by a rate or rates levied in excess of the

limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution shall be allocated to the fund for which the tax rate or rates were levied.

(b) For the 1984–85 fiscal year, the county auditor shall, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, do all of the following:

(1) Make the allocation and payment of funds as provided in Section 33670 of the Health and Safety Code.

(2) Allocate to the county the amount determined pursuant to Section 75.60.

(3) Allocate to the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by the county's property tax apportionment factor determined pursuant to Section 97.5.

(4) Allocate to each community college district and county superintendent of schools within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each county superintendent of schools' and community college district's property tax apportionment factor determined pursuant to Section 97.5.

(5) Allocate to each city within the county an amount equal to the total amount of additional revenue generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(6) Allocate to each special district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each special district's property tax apportionment factor determined pursuant to Section 97.5. The amount allocated to each special district which is governed by the board of supervisors of a county or whose governing board is the same as the board of supervisors of a county, shall be subject to Section 98.6.

(7) Allocate the remaining revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter to all elementary, high school, and unified school districts within the county in proportion to each school district's average daily attendance, as certified by the

Superintendent of Public Instruction for purposes of the advance apportionment of state aid in the then current fiscal year.

(8) Allocate additional revenues generated by a rate levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution to the fund or funds for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 30 calendar days after the close of the preceding monthly or four-weekly accounting period.

(c) For the 1985–86 fiscal year, and each fiscal year thereafter, the county auditor shall, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, do all of the following:

(1) Make the allocation and payment of funds as provided in Section 33670 of the Health and Safety Code.

(2) Allocate and pay to the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by the county's property tax apportionment factor determined pursuant to Section 97.5.

(3) Allocate and pay to each county superintendent of schools and community college district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each county superintendent of schools' and community college district's property tax apportionment factor determined pursuant to Section 97.5.

(4) Allocate and pay to each city within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(5) Allocate and pay to each special district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each special district's property tax apportionment factor determined pursuant to Section 97.5. The amount allocated to each special district which is governed by the board of supervisors of a county or whose governing body is the same as the board of supervisors of a county, shall be subject to Section 98.6.

(6) Allocate and pay the remaining revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter to all elementary, high school, and unified school districts within the county in proportion to each school district's average daily attendance, as certified by the Superintendent of Public Instruction for the purposes of the advance apportionment of state aid in the then current fiscal year.

(7) Allocate and pay additional revenues generated by a rate levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution to the fund or funds for which the tax rate or rates were levied.

These allocations and payments shall be made on a timely basis but no later than 30 calendar days after the close of the preceding monthly or four-weekly accounting period. For a county with a population of 500,000 or less, the allocations may be made on a biannual basis.

(d) For purposes of the certification made by the Superintendent of Public Instruction pursuant to subdivision (a), the average daily attendance of the following school districts shall be deemed to be zero:

(1) In the case of multicounty school districts, the portions of the school districts located other than in the county of control.

(2) A school district that is an excess tax school entity, as defined in subdivision (n) of Section 95, in the prior fiscal year.

(e) The Superintendent of Public Instruction shall certify the appropriate counts of average daily attendance pursuant to subdivision (a) to each county auditor no later than July 15 of each applicable fiscal year.

(f) On or before November 15 and April 15, the auditor of each county shall furnish to the Superintendent of Public Instruction the estimated amount of tax receipts pursuant to this section of each school district situated within his or her county.

(g) In the event property tax revenues under this chapter are generated by a change in ownership or completed new construction which occurred on or before May 31, 1984, but are collected subsequent to the 1983–84 fiscal year, the revenues for the current roll shall be allocated to school districts as if they had been collected and allocated during this 1983–84 fiscal year. Any of the aforementioned revenues which are collected in the 1984–85 fiscal year shall be applied to school apportionments for the 1984–85 fiscal year.

SEC. 16. Section 4.5 of this bill incorporates amendments to Section 41326 of the Education Code proposed by both this bill and Assembly Bill 2279. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 41326 of the Education Code, and (3) this bill is enacted after Assembly Bill 2279, in which case Section 4 of this bill shall not become operative.

SEC. 17. Section 9.5 of this bill incorporates amendments to Section 48070.6 of the Education Code proposed by both this bill and Senate Bill 1497. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 48070.6

of the Education Code, and (3) this bill is enacted after Senate Bill 1497, in which case Section 9 of this bill shall not become operative.

SEC. 18. The Legislature finds and declares that Section 14 of this act furthers the purposes of the California State Lottery Act of 1984.

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